

<p style="text-align: center;">KENTUCKY CORRECTIONS Policies and Procedures</p>	<p>Policy Number</p> <p style="text-align: center;">27-13-01</p> <p>Date Filed</p> <p style="text-align: center;">January 12, 2005</p>	<p>Total Pages</p> <p style="text-align: center;">7</p> <p>Effective Date</p> <p style="text-align: center;">May 26, 2005</p>
<p>Authority/References</p> <p>KRS 196.070, 218A.010 et. seq., 439.256, 439.330, 439.348, 439.480(3), 439.510, 439.990, 533.030, 533.250, 533.262 P&P ACA 3-3136</p>	<p>Subject</p> <p style="text-align: center;">DRUG AND ALCOHOL TESTING OF OFFENDERS</p>	

I. DEFINITIONS

As used in this document, the following definitions shall apply:

“Breathalyzer” means any electronic device, which measures chemicals, especially blood alcohol concentration by analysis of a person’s expired breath.

“Preliminary breath test” means a machine operated by an officer that measures the blood alcohol content of a person’s expired breath.

“Drug” means a controlled substance as defined in KRS Chapter 218A, or alcohol as defined in KRS 241.010.

“Offender” means a person who is on pre-trial diversion, probation, parole, or sex offender conditional discharge.

“Officer” means Probation and Parole officer.

“Random drug testing” means the arbitrary drug testing of offenders under the supervision of the Division of Probation and Parole.

“Releasing authority” means the Parole Board, District or Circuit Courts, or Interstate Compact cases.

“Use of alcoholic beverage” means the consumption of, or possession of, any alcoholic beverage.

II. POLICY and PROCEDURE

- A. Officers shall conduct drug testing of offenders in order to determine: (1) offender compliance with the conditions of Probation and Parole; and (2) whether an offender is in need of substance abuse treatment. Drug testing and sanctions shall be utilized to reduce offender drug use and abuse. (3-3136)

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- B. The taking of a urine sample shall be conducted in a uniform manner according to established procedures to ensure that drug testing is conducted objectively. All available treatment methods shall be provided for an offender with a drug or alcohol problem. An offender who refuses treatment for drug addiction shall be handled administratively.
- C. Offenders may be tested for the use of alcohol.
- D. Selection Criteria: An offender on supervision shall be tested for the presence of illicit or unauthorized drug use if one (1) of the following criteria is met:
 - 1. The releasing authority requires that the offender to submit to drug testing. A Kentucky probationer may be assessed a fee for drug testing and analysis, not to exceed the actual cost of testing or analysis. Collection of a urine sample shall not be contingent upon the payment of fees by the offender.
 - 2. The offense of conviction involved drug use or distribution.
 - 3. The offender has a documented or admitted history of drug abuse.
 - 4. Evidence indicates possible current use of drugs by the offender. Evidence of use may be:
 - a. Prior positive urinalysis,
 - b. Information received from the offender, friend, family, neighbor, or police, or
 - c. Other circumstances known to the officer.
 - 5. The offender is currently involved in a drug treatment program.
 - 6. The offender is selected for random drug testing from the monthly caseload list by a computer program, or as determined by the Assistant Director or designee. A minimum of 2% of the total district caseload shall be tested on a monthly basis.
- E. Frequency of Testing: Random drug testing shall be completed in a manner which avoids creating a pattern or routine that may be detected by the offender. After testing is accomplished, the frequency of future tests shall be established. The following guidelines shall assist in determining testing frequencies:
 - 1. Negative Test Results: If an offender has been initially tested and the results do not show the presence of drugs in the body, further testing is not

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required unless: (a) the officer suspects continued drug use by the offender, (b) the offender is randomly selected, or (c) unless otherwise ordered by the releasing authority.

2. Positive Test Results: If an offender has been tested and a positive test result is received, the offender shall be tested again within sixty (60) days and frequent testing shall continue until the offender demonstrates a pattern of drug free compliance.

The frequency of testing shall vary for offenders in different circumstances. Specific conditions imposed by the releasing authority shall be met.

F. Types of Testing

1. Preliminary breath test - An officer using the hand-held breath tester shall be trained. If the equipment is available, the breath tester shall be used any time an officer suspects alcohol use by an offender.
2. Off-site testing shall be completed by a certified laboratory. Initial urine tests of offenders shall utilize this method to identify the drug-of-choice. A complete screen shall be used. An officer may use this method after initial testing to determine if the offender has changed his drug-of-choice.
3. On-site urine testing using a portable screening card and reagent may be used by the officer after the initial screen indicates the drug-of-choice.
4. Confirmation urine testing shall be conducted by an SAMSHA certified laboratory. This testing shall be required if an offender does not sign the admission document agreeing with the results of the test and if the officer is seeking revocation.
5. Alcohol Field Tests - Tests shall determine breath or blood alcohol level by means of a preliminary breath test or breathalyzer.

G. Preparation for Specimen Collection

1. The officer requesting the drug test shall be responsible for preparing for the specimen collection or shall designate another officer to complete the collection.
2. The offender shall be identified by a driver's license, photo identification, or personal identification by an officer.
3. The officer shall complete the appropriate sections of the chain of custody document issued by the lab.

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4. The identification label shall be completed including the offender's I.D. number and initials, the date, and collecting officer's signature.
5. The officer shall complete the necessary paperwork at the time of each drug test. A copy shall be placed in the offender's file.

H. Urine Collection

1. An officer shall escort the offender to the area where the urine sample shall be taken. Items needed for collection include: requisition and chain of custody document, latex gloves, specimen container, evidence tape, and tamper proof specimen container bag. Unobserved collection shall be allowed as specified below.
2. The officer shall instruct the offender to wash his hands thoroughly before providing the urine sample. The officer shall wear gloves during the collection and testing of urine.
3. The officer shall make all reasonable efforts to ensure that the offender being tested does not alter, switch, dilute, or tamper with the urine sample.
4. Unobserved collection shall only be used if the same sex requirement cannot be met. In the event of an unobserved collection, the officer may use evidence tape to seal the faucet, insert dye in the commode, and use a collection bottle with a temperature strip.
5. In the presence of the officer the offender shall:
 - a. Provide a minimum of 50 ml of urine for an acceptable specimen,
 - b. Close the urine specimen container and seal the container with evidence tape unless on-site testing is to be used,
 - c. Complete the of chain of custody document, and
 - d. Place the container in a plastic bag following procedures outlined by the lab and seal the bag.
6. Any offender ordered to produce a urine specimen, who fails to provide a specimen after a two (2) hour period, shall be subject to the same penalties as a positive result.
7. The officer shall place the bag in a monitored, secured area until authorized laboratory personnel arrives for pick up, or until the specimen may be shipped by mail or courier, to the lab.

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8. The laboratory results, along with the chain of custody document, shall be returned to the officer. Results that indicate the presence of a drug, shall be brought to the attention of the releasing authority as soon as possible.

I. On-Site Testing

1. After collection of the urine specimen, the officer shall escort the offender to a private location to conduct the test. The offender shall observe the entire testing procedure.
2. The officer shall remove the required tests from storage and proceed according to manufacturer's instructions.
3. The officer shall instruct the offender to open and close the specimen container to allow extraction of a portion of the specimen to conduct the test.
4. If the test is positive, the offender shall complete the admission and sanctions document indicating agreement or disagreement with the results of the test. A copy of the document shall be placed in the offender's file.
5. If the offender disagrees with the results of the test, the urine specimen shall be forwarded to a lab in accordance with procedures outlined above.
6. If the test is negative, the officer shall instruct the offender to empty the urine specimen into a toilet when the testing procedures are complete.
7. Empty bottles, bottle caps, gloves and other testing equipment ready for disposal shall be placed into a designated trash receptacle. Applicable federal and state regulations shall be followed.
8. The officer conducting the test shall thoroughly wash his hands after contact with the specimen.

J. Reporting Procedures

The officer shall report all positive drug tests to the releasing authority. The document shall include notification of the action taken or a request for action.

K. Sanctions for Positive Drug Test Results

1. Once the offender has a positive drug test, or violates the conditions of use of alcoholic beverages, the officer shall take some type of action in response to the offender's use of drugs within five (5) working days.

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2. Unless there are extenuating circumstances or otherwise ordered by the releasing authority, the officer shall respond to a positive test by using one (1) or more sanctions in the following order:
 - a. For the first positive test, the officer shall issue an oral warning, written warning or increase the frequency of drug testing, or a combination thereof. An offender testing positive shall be referred to the Social Service Clinician, or the Clinician should be advised of the positive test if the offender is already in treatment.
 - b. For any subsequent positive test the following sanctions may be imposed:
 1. Increase level of supervision
 2. Travel restrictions
 3. Placement in a residential facility
 4. Increased attendance at self-help groups
 5. Increased frequency of testing
 6. Impose electronic monitoring or curfew
 7. Initiate revocation proceedings based on consultation with District Supervisor
 8. Other appropriate sanction
3. The officer shall not take an offender into custody based solely on the result of an on-site test until a confirmation test is conducted or unless the offender signs an admission statement.

L. Revocation Proceedings

For the results of a positive urinalysis to be used in a revocation hearing, the following minimum elements shall be met:

1. Presence of the person taking, labeling, and sealing the sample for live testimony and confrontation at the hearing;
2. Production of the laboratory document,
3. Production of the completed chain of custody document,
4. Production of the admission statement, if applicable.

M. Disclosure of Drug Test Results

1. The disclosure of drug testing results shall be limited to:
 - a. the offender,

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- b. the court or releasing authority,
- c. a treatment provider with the offender's prior written permission. The written consent to release drug test results shall be valid throughout the period of supervision.

2. The information that may be released shall include:

- a. The date of the test,
- b. The drugs tested,
- c. Whether the results were positive or negative, and
- d. The categories of drugs that were tested.

3. Any employee who releases drug test results without authorization violates KRS 439.510 and may be subject to prosecution and penalties as set forth in KRS 439.990.

N. Training

An officer shall be trained in the procedure for taking of a urine sample before he uses this procedure with an offender. Training shall be conducted by the vendor supplying the testing material or by a staff member who has received training.

O. Referrals to Treatment

An officer referring an offender to treatment shall forward the necessary paperwork to the appropriate Social Service Clinician. A copy shall be sent to the treatment provider. If the offender exits the treatment program, the officer shall complete the appropriate documentation.

P. Offender Paid Drug Testing

Offender paid drug testing fees shall be submitted and disbursed pursuant to CPP 27-12-11.